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FOR INL A/S BEERS AND AF A/S KANSTEINER

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SUBJECT: NIGERIA: EMBASSY COMMENTS ON NARCOTICS ANALYSIS
AND DRUG CERTIFICATION

Classified by Ambassador Howard F. Jeter; Reasons 1.6X5,
1.6X6.

1. (S/NF) The following are Embassy,s comments on the CIA Assessment dated December 28, 2001 and entitled &Nigeria: Avoiding Counterdrug Reforms.8 We understand the assessment was first distributed at a January 4, 2002 INL-chaired interagency meeting on Nigeria,s certification. The Embassy welcomes the opportunity to comment o nthe report and its conclusions.

General Observation

2.(S/NF) The Embassy believes the assessment,s conclusion that the GON lacks commitment to counter-narcotics law enforcement is unsubstantiated and paints a misleading picture of GON efforts during the past year. From our perspective, a more appropriate conclusion would have been that Nigeria continues to move in the right direction but does, in fact, have a long way to go in overcoming serious institutional and resource obstacles to a vigorous and effective counter-narcotics strategy. However, given the myriad demands on the GON,s finite resources, the degree of progress and the level of resource allocation indicates political commitment to counternarcotics that, albeit incomplete, should be encouraged, not dismissively treated as negligible.

3. (S/NF) In portraying the Obasanjo Administration as either reticent or opposed (due to corruption) to improved drug control efforts, the assessment has selectively culled from open sources and Embassy reporting instead of weighing the entirety of reporting to get a more accurate picture. The notion that President Obasanjo has not supported counter-narcotics reforms in the last year is simply not true. In many meetings with the President, we have raised our anti-drug concerns and Obasanjo has always responded positively and quickly. Though the President seemed unaware of the precise requirements of certification during an early July meeting (Abuja 1547), he nonetheless responded positively to the reforms that we encouraged, and subsequently increased the budget of the NDLEA.

4. (S/NF) The following are comments linked to specific points raised in the assessment:

--One Anti-Drug Agency. The assessment portrays the NDLEA,s role as the sole law enforcement agency with an express counter-narcotics mandate as a weakness in Nigeria,s performance. This is not the case. We have never considered this a deficiency and we have not encouraged the GON to enlist other agencies in the anti-drug effort. Thus, the assessment faults the GON for a perceived lapse of which they have never been put on notice. Moreover, the NDLEA has a dedicated staff far superior to that of Nigerian Customs, Police or any other law enforcement agency. The NDLEA receives greater resources and better training because of its exclusive mandate. We support this specialization in drug control efforts) it is resource-efficient, limits potential corruption, and it has been effective. Moreover, we should not forget that we have the best access and relationship with the NDLEA in the history of the Mission; only three years ago we had difficulty meeting with the Chairman of the NDLEA, let alone getting NDLEA to act.

-- The Vice President: While the Vice President,s alleged corruption while in the Customs Service is common knowledge, we have no evidence that Atiku was ever involved in abetting drug smuggling. Nigeria,s ridiculously high tariffs make it easy for Customs officers to get rich without involving

themselves in the drug trade. Moreover, we have never seen any overt or covert attempt by the VP to undermine the NDLEA. To the contrary, he has been helpful in pushing forward NDLEA Chairman Lafiaji,s FY2002 request for an additional two billion naira in capital expenditures for the NDLEA.

--Counter-Drug Positions: The assessment,s statement that &In 2001 key positions in Nigeria,s counter-drug bureaucracy went unfulfilled& needs explanation. Ibrahim Lame, for two years the Senior Special Assistant to the President on Drugs and Financial Crimes, was relieved of his duties in mid-2001. The position was subsequently abolished because it was redundant and its utility was marginal. The Senior Special Assistant had no control over resources or personnel. He added little to policy formulation, and was not a key player. A Director will head the far stronger Financial Crimes Commission, which will control significant resources and will have both policy coordination and operational roles.

--Similarly, the statement that &promises to increase the counter-drug budget were not kept& is also inaccurate. The Chairman of the Senate Committee of Drugs and Financial Crimes, Lawal Shaibu, working closely with Chairman Lafiaji, in early 2001 drafted a proposed supplementary budget request of two billion naira (at the time about USD 20 million). This was not/not the Federal Government,s request, but rather a proposal emanating from the National Assembly. Senator Shuaibu and other National Assembly supporters of the NDLEA made this substantial request with the full expectation that the Presidency could only grant a portion of it given overall budgetary constraints. (Note: Shuaibu has again made such a request for the FY2002 budget now being considered)- 1.3 billion naira for the NDLEA. End Note)

--Lafiaji: Strong Staying Power. Chairman Bello Lafiaji has already outlasted his past two predecessors and shows no sign of leaving the job or waning in his enthusiasm, commitment and performance. He has a high integrity rating. We have seen no credible reports indicating any ties to suspected drug traffickers, and as far as we know, Lafiaji is beyond reproach. This stands in stark contrast to Lafiaji,s predecessors. President Obasanjo has told us that he is pleased with Lafiaji,s performance and he has repeated expressed his support for the Chairman,s leadership, most recently on National television December 18, 2001, when he bestowed one of Nigeria,s highest honors) the Order of the Niger) on the Chairman for his work.

--There has been no corroboration of the sensitive intelligence report that Lafiaji is under threat of being ousted by officials in the Presidency. Even if some in the Presidency oppose Lafiaji, he clearly still enjoys the President,s support. And that,s the point that should be made. In fact, Lafiaji,s role and authority are likely to grow with the passing of Attorney General Bola Ige from the scene. (Ige was a very strong supporter of Lafiaji,s NDLEA leadership.)

--Extradition: Nigeria has never extradited a U.S. fugitive for drug trafficking) the reference to U.S. extraditions under the Abacha regime in 1994 is in error. Nigeria has, however, rendered into USG custody several important USG fugitives, including drug traffickers sent to U.S. trials in 1994 under General Abacha,s rule and international terrorist (Egypt Air highjacking) Rezaq under Babaginda,s rule. Most recently, in November 2000 President Obasanjo ordered the rendition of four fugitives, including two drug traffickers on the U.S. President,s list of 12 International Drug Kingpins. The GON carried out these renditions with considerable political risk because they wanted to meet our requirements but knew that they could not comply under current judicial arrangements, with corrupt judges in place. The GON offered additional renditions, but we said that we could not accept its methods in doing so.

--The Obasanjo administration has been and remains committed to cooperation in turning over fugitives from U.S. justice. The President and the late Attorney General often expressed their conviction that Nigeria should not become a haven for international criminals. Yet they conceded, and we have acknowledged, that Nigeria cannot develop and institutionalize an efficient extradition process that provides all the adequate due process safeguards in the near term. Sixteen consecutive years of military rule destroyed the judiciary. We should not pressure a two year-old democratically elected government to effectuate extradition without due observance of the rule of law.

--The paramount importance of the rule of law is something that we have been telling the Nigerians. Previously we

encouraged, even demanded, that Nigeria hand over -- using whatever means necessary -- at least two fugitives in 2000. Because we recognize the long-term importance of building an appreciation for the rule of law, we no longer want to see U.S. fugitives handed over in the way accepted before; we now correctly encourage the Nigerians to develop a process that observes procedural and substantive due process much like we have in the United States. Thus, because of the balancing of these rule-of-law and law enforcement considerations, we must give the current Administration a more reasonable amount of time before concluding that they are non-cooperative regarding extradition.

--Corruption: The Obasanjo Administration has clearly improved the fight against corruption in the past year. The Independent Corrupt Practices and Other Related Offenses Commission (ICPC) celebrated its first birthday in September 2001. The Commission's first group of dedicated staff (investigators, prosecutors, and administrators) was hired in December 2001 and starts work on February 1, 2002. A second batch of 200 will be hired in June 2002. Just last week, Obasanjo reportedly approved a 2002 budget request for the ICPC of one billion naira (USD 9 million) in capital expenditures and 400 million naira (USD 3.6 million) in operating expenses. Though this budget request must be approved by the National Assembly, it represents a 250 percent increase over the USD five million given to the ICPC for all of its expenses in 2001. Corruption

5.(S/NF)Comment: The end-of-the-year assessment of Nigeria's counter-drug performance does not give a complete picture. Some of the report's inaccuracies could have been avoided if the report had been shared in draft with the field prior to publication. Moreover, field visits by relevant analysts should be encouraged in order to get ground truth reporting otherwise evaluated from a distance in Washington.

Certification in Perspective: Improvement since 2000?

6.(S/NF) As Washington readers are aware, in the recently passed Foreign Operations Bill, Congress established a new standard for narcotics certification -- those countries that have not failed demonstrably in their counternarcotics efforts. Nigeria was granted full certification by the President on March 1, 2001, passing a higher certification standard. As detailed above and in many Embassy reporting cables including reftels, the Obasanjo Administration has made limited but substantial reforms on the counter-drug and law enforcement fronts. While the significance of these reforms) some of them limited to pledges as of this writing) can be debated, the argument that Nigeria has lost ground in its anti-drug efforts since January 2001 is just not credible.

7.(C) The Ambassador also notes that if the Department of Justice and DEA had strong concerns about the GON's drug control performance, these were not apparent during Chairman Lafiaji's November 8 meeting at DEA Headquarters, which the Ambassador attended. Instead, DEA officials praised the NDLEA for improvements in its performance.

You Bet Things Look Better

8.(C/NF) Here's our perspective on the last year of counter-drug efforts. During the past year:

--Federal resources devoted to the anti-drug effort have increased substantially;

--the NDLEA's operational writ has expanded to all sea ports;

--the amount of hard drugs seized rose 40 percent;

--arrests of drug traffickers rose 26 percent;

--drug-related convictions rose 51 percent;

--there were no acquittals in the 2,400 drug cases prosecuted;

--airport drug interdiction efforts are now so successful that more seizures of heroin in U.S. ports of entry are made from flights originating from Ghana rather than from Nigeria;

--The late Attorney General led a GON team to a Rome meeting with the FATF to address international concerns over Nigeria,s money laundering controls;

--the GON has moved quickly to strengthen money-laundering legislation and form a centralized authority to fight financial crimes) all in response to USG and FATF concerns;

--the Joint NDLEA-DEA Task Force has been re-energized and is now investigating a major Nigeria based trafficker; and

--the year-old Anti-Corruption Commission is gaining strength and receiving more federal resources.

9.(S/NF) We set out certification benchmarks for the GON to meet during 2001. All of these were either met fully or met with a good faith effort. We should not make a certification decision on the basis of whether we think many Nigerians are &bad8 or whether the country has a large drug and organized crime problem. These are not the criteria; the benchmarks are. Nigeria has made the grade. It should be certified.

Jeter